



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

March 21, 2012

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To: Supervisor Zev Yaroslavsky, Chairman
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From: William T Fujioka
Chief Executive Officer

MOTION BY SUPERVISOR ANTONOVICH REQUESTING THE CHIEF EXECUTIVE OFFICE EXAMINE ASSEMBLY BILL 117 (CHAPTER 39, STATUTES OF 2011) AND REPORT BACK ON ISSUES RELATED TO CONTRACTING WITH COMMUNITY CORRECTIONAL FACILITIES (RELATED TO AGENDA ITEM S-1, MEETING OF FEBRUARY 28, 2012)

Item No. S-1 on the February 28, 2012 Agenda was a report by the Sheriff's Department related to researching and exploring the option of contracting with publicly-operated Community Correctional Facilities (CCFs) for management of the County's sentenced inmate population. During discussion of the item, Supervisor Antonovich requested the Chief Executive Office to examine several issues related to the legislation authorizing counties to contract with the CCFs, including:

- The time restrictions included in Assembly Bill 117 (Chapter 39, Statutes of 2011) related to contracting with CCFs;
- An analysis of SB 1351 (Rubio), which was introduced on February 24, 2012 would amend certain provisions contained in AB 117 related to CCFs, to allow the Board to determine whether or not to support the legislation; and
- Explore why the State restricted counties to contract with public and not private CCFs, and whether there are legislative efforts to amend that provision of the law.

The 2011 Public Safety Realignment (AB 109, AB 117 and other enacting legislation) shifted responsibility for the incarceration of certain offenders from the State to counties. In order to provide counties flexibility to manage the realigned population, the legislation established authority for counties to contract with CCFs. Specifically, AB 117 of 2011

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allows county boards of supervisors to enter into contracts with publicly-operated CCFs to house county jail inmates sentenced under the new guidelines set forth in the 2011 Public Safety Realignment.

Time Restrictions for Contracting with CCFs

Pursuant to AB 117 of 2011, existing law provides counties the authority to contract with publicly-operated CCFs but includes a sunset date of January 1, 2015. After that date, counties will no longer be authorized to contract with publicly-operated CCFs to house county jail inmates sentenced under the 2011 Public Safety Realignment.

The inclusion of the sunset date will restrict counties from utilizing publicly-operated CCFs beyond January 2015. According to the Sheriff's Department and the California State Sheriffs' Association (CSSA), this provision was included at the request of sheriffs in counties that contain CCFs who were concerned that other counties would utilize the CCFs to house large populations of their inmates on a long-term basis. This would essentially shift jail inmates from one county to another and disproportionately increase the total number of jail inmates sentenced under realignment in counties with publicly-operated CCFs. In addition, there was a concern that this could also create an incentive for CCFs to expand capacity to accommodate larger numbers of jail inmates from multiple jurisdictions. As a result of this concern, the Administration and the Legislature included the sunset date in AB 117.

Analysis of SB 1351 (Rubio)

SB 1351 (Rubio), which as introduced on February 24, 2012, would provide that the definition of a peace officer includes a correctional officer who is employed by a city, county, or city and county which operates a facility that provides housing for inmates sentenced to county correctional facilities. Specifically, the bill extends the scope and authority of peace officer status to correctional officers employed by a publicly-operated CCF which contracts with counties to house county jail inmates. There are no publicly-operated CCFs in the County; therefore, SB 1351 would have no impact on the County.

SB 1351 is scheduled for a hearing in the Senate Committee on Public Safety on March 27, 2012. This measure is sponsored by the Association of California Cities Allied with Public Safety and has registered support from the Kern County Sheriff's Department, the California Correctional Supervisors Organization and the Cities of Coalinga, Delano, Folsom, Shafter, Wasco, and Taft. There is no registered opposition.

As currently drafted, SB 1351 does not address the January 1, 2015 sunset date for contracting with publicly-operated CCFs. However, the Sheriff's Department indicates that they are in discussions with the Administration to include language in a budget

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trailer bill that would allow contracts, including amendments and extensions, to continue between a county and a publicly-operated CCF if the contract was entered into prior to January 1, 2015. The proposed language would allow counties under contract with a publicly-operated CCF to continue to utilize CCFs to house county jail inmates sentenced under the 2011 Public Safety Realignment beyond the sunset date set forth in AB 117.

Restrictions on Contracts with Private CCFs

Existing law does not allow counties to contract with privately-run CCFs to house county jail inmates sentenced under the 2011 Public Safety Realignment. Pursuant to enacted provisions of AB 117 of 2011, counties are only authorized to contract with publicly-operated CCFs to house the realigned county jail population.

The Administration and the Legislature only included publicly-operated CCFs as entities with which counties could contract to house county jail inmates sentenced under the 2011 Public Safety Realignment. According to the CSSA, correctional officers at publicly-operated CCFs have historically handled State level inmates and, as a result, are required to complete State certified training to perform essential correctional duties such as making arrests and performing proper investigations of illegal activities that occur within a correctional facility. In contrast, correctional staff at privately-run CCFs is not required to complete any such training and has a lower level of correctional training and expertise. As a result of the disparity in training, the restriction to publicly-operated CCFs was included in the enacting legislation.

Currently, there are no legislative efforts to amend the law to change the provision restricting counties from contracting with privately-run CCFs. CSSA indicates that they would oppose any such effort. Furthermore, the Administration has indicated that they would not be supportive at this time of an attempt to allow a contracting option with privately-run CCFs.

This office will continue to work with the Sheriff's Department to analyze and monitor SB 1351 and any proposed legislation related to CCFs and will report back to your Board.

We will continue to keep you advised.

WTF:RA
MR:KA:sb

c: Executive Office, Board of Supervisors
County Counsel